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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/979,569	11/19/2001	Alan Anthony Wilson	PG3707USW	3282
23347	7590	02/09/2004	EXAMINER	
DAVID J LEVY, CORPORATE INTELLECTUAL PROPERTY GLAXOSMITHKLINE FIVE MOORE DR., PO BOX 13398 RESEARCH TRIANGLE PARK, NC 27709-3398			HARMON, CHRISTOPHER R	
			ART UNIT	PAPER NUMBER
			3721	11
DATE MAILED: 02/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/979,569

Applicant(s)

WILSON ET AL.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-80 is/are pending in the application.
- 4a) Of the above claim(s) 26,29-36,63-69,79 and 80 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25,27,28,37-62 and 70-78 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of Group I in Paper No. 8 is acknowledged. The traversal is on the ground(s) that a single inventive concept is presented between the groups, which have a technical relationship to one another. This is not found persuasive because there are separate special technical features, which the separate groups are directed towards. However, because Groups I and II are both related to the function of leveling a powder in order to provide measured filling of containers they are combined and both are examined. Therefore the new grouping of claims examined are 1-25, 27-28, 37-62, and 70-78.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 50, 52, and 53 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The above claims recite the limitation "The method of..." in the preamble of each. There is insufficient antecedent basis for this limitation in these claims.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 5-9, 14-17, 22-23, 27-28, 37-38, 40-43, 46, 48-50, 55-56, 61-62, 70, 73-74, 76-78 are rejected under 35 U.S.C. 102(b) as being anticipated by Lefort (US 3,565,132).

Lefort discloses a method and apparatus for filling containers with a measured powder comprising closing off perforated 17 plate; directing powder by inclined leveler blade 10; blanking plate 19; transferor 21; see figures 1-2, 5-7.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 10-13, 39, 41, 75, and 78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lefort (US 3,565,132).

Regarding claims 10-13, the configuration of the leveler blade would have been an obvious design choice to one of ordinary skill in the art at the time the invention was made.

Regarding claims 39 and 75, the containers are closed/lidded at a later operation and would have been obvious to one of ordinary skill in the art to provide for a lidding apparatus.

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8. Claims 1-25, 27-28, 37-38, 40-62, and 70-74, 76-78 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dworak et al. (US 5,549,144) in view of Morris (US 4,850,259).

Dworak et al. disclose a method and apparatus for filling containers with a measured powder comprising closing off perforated plate 52; directing powder by levelers 84a, 84b, 86a, 86b; wiper 88; blanking plate 64; transferor/blanking pin 78; see figures 1 and 2.

Dworak et al. does not disclose moveable leveler blades presenting a forward acute angle however Morris teaches a powder dosing apparatus with multiple leveler blades 22 and 23 at separate depths movable across the surface of powder. The ends of the blades present forward and reverse angles to the sweeping path; see figures 2 and 3. It would have been obvious to one of ordinary skill in the art to use the teachings of Morris in the invention to Dworak et al. in order to level the powder over the perforated plate.

Regarding claims 52 and 54, the examiner takes Official Notice that leveler blade either curved or with a flat tail section solves no stated problem and would be an obvious matter of design choice within the skill of the art.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch


EUGENE KIM
PRIMARY EXAMINER